

11-16-05

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Practitioner's Docket No. 1582.34

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Junya WATABE et al.

Application No.: 10/775,862

Group No.: 1755

Filed: 02/10/2004

Examiner: C. M. KOSLOW

For: ELECTROLUMINESCENT PHOSPHOR AND ITS PRODUCTION METHOD

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT -
NONFINAL OFFICE ACTION NOT RECEIVED

1. I hereby petition to withdraw the holding of abandonment in this case, on the basis that the Office Action forming the basis of the abandonment was not received.
2. I hereby state:
 - (a) The Office Action indicated, as mailed on April 7, 2005, was not received. Examiner Koslow telephoned the undersigned representative on November 14, 2005 and asked if the application had been abandoned. The examiner confirmed that the office action was mailed to Mason Law, PL at 17757 US 19 North, Suite 500, Clearwater, Florida. A review of the file jacket and docket record at both Mason Law and LaPointe Law

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is *mandatory*;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

G deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 C.F.R. § 1.8(a)

G with sufficient postage as first class mail.

37 C.F.R. § 1.10*

X as "Express Mail Post Office to Addressee"

Mailing Label No. ED 868075936 US (mandatory)

TRANSMISSION

G facsimile transmitted to the Patent and Trademark Office, (703) _____

11/17/2005 NNGUYEN1 00000003 503368 10775862

01 FC:1462

400.00 DA

Date: 11/15/05

Signature

Robin Dee Carter

(type or print name of person certifying)

* Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

reflected that the last action was the submission of the missing part response on May 14, 2004.

The undersigned maintained customer number 24040 when Mason Law, PL was reorganized and the undersigned representative formed his own office as LaPointe Law Group, PL and relocated to its current Tarpon Springs, Florida address on January 1, 2005. The new address was changed with an EBC address update in late December 2004. Further, on June 15, 2005, a paper submission of the same address for correspondence change was submitted to the Patent Office reflecting the P.O. Box 1294, Tarpon Springs, FL 34688 address. Mason Law, PL in January reestablished itself as a trademark and copyright practice and the LaPointe Law office remains affiliated with Mason Law and handles all patent matters formerly handled by Mason Law. The undersigned has checked with the Mason Law office and it has no record of receiving the office action. For other files, Mason Law has regularly forwarded received actions to my office (although not many were sent there). Most actions have been sent to the undersigned new address since the change of address was made with the EBC in late December 2004.

- (b) In the transition period, the undersigned representative has been using the docket system at Mason Law and as new actions are received, the undersigned has been entering the new data in its own docket. A search of the file jacket and the docket records in both offices indicates that this Office Action was not received. A copy of the docket record at Mason Law is attached and confirms that the last entry was for responding to the Missing Parts requirement. The undersigned has also now created a docket entry for this case in his own case docketing system and has initially entered an action to respond to the 14 November 2005 telephonic advisory from the Examiner that the application is being held abandoned for failure to respond to a non-final office action (that was not received).

3. I attach a copy of the docket record from Mason Law and LaPointe Law where the non-received Office Action would typically have been entered had it been received and docketed. The docket entries (task and deadline reminders) indicate that the last official action which was responded to was the Missing Parts response on May 14, 2004.

4. As additional evidence of non-receipt of the Office Action, I also attach:

Statements from the person(s) who would have handled the Office Action had it been received.

5. In consideration of these submissions, it is respectfully requested that the holding of abandonment be withdrawn and a new office action issued allowing a three-month statutory period in which to respond without extension fees.

6. The petition fee (37 C.F.R. § 1.17(f)–\$400.00) is paid as follows:

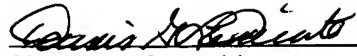
Authorization is hereby made to charge the amount of \$400.00 to Deposit Account No. 503368.

Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

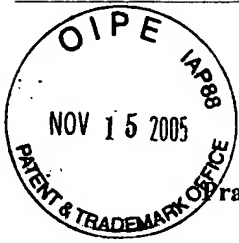
A duplicate of this paper is attached.

Date: 11/15/05

Reg. No.: 40,693
Tel. No.: 727-943-9300
Customer No.: 24040



Signature of Practitioner
DENNIS G. LAPOINTE
LAPOINTE LAW GROUP, PL
P.O. BOX 1294
TARPON SPRINGS, FL 34688



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PATENT

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Application No.: 10/775,862

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P.O. Box 1450

Alexandria, VA 22313-1450

**DECLARATION IN SUPPORT OF PETITION TO WITHDRAW HOLDING OF
ABANDONMENT— OFFICE ACTION NOT RECEIVED**

I, Diane Miller, a legal assistant at Mason Law, PL at 4755 East Bay Drive in Clearwater, Florida hereby declare:

On November 14, 2005, Dennis G. LaPointe telephoned me and asked if Mason Law had ever received an office action in the above-referenced case in the April 2005 timeframe. I checked our docket system and no record was found of ever receiving an office action in this case in the April 2005 timeframe. The record reflects that the last action was a response to a Missing Parts requirement that was responded to on May 14, 2004. Part of my responsibility at Mason Law is to maintain and update the IP docketing system, and I am very familiar with what should be included in the docketing system. A copy of the Mason Law docket is attached herein.

After the restructure of Mason Law, it is our policy that any patent related documents are immediately sent by priority mail to Dennis G. LaPointe at his new address in Tarpon Springs, Florida. Had such an office action been received, we would have provided it to Mr. LaPointe shortly upon having received it.

I declare under penalty of perjury that the above is true and correct.

11/14/05
Date

Diane Miller
Diane Miller, Legal Assistant



Practitioner's Docket No. 1582.34

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**DECLARATION IN SUPPORT OF PETITION TO WITHDRAW HOLDING OF
ABANDONMENT— OFFICE ACTION NOT RECEIVED**

I, Dennis G. LaPointe, an attorney at LaPointe Law Group, PL at P.O. Box 1294 in Tarpon Springs, Florida 34688 hereby declare:

On November 14, 2005, Examiner Koslow telephoned me and asked if the application had been abandoned. The examiner confirmed that the office action was mailed to Mason Law, PL at 17757 US 19 North, Suite 500, Clearwater, Florida. A review of the file jacket and docket record at both my firm and the Mason Law firm reflected that the last action was the submission of the missing part response on May 14, 2004.

The undersigned maintained customer number 24040 when Mason Law, PL was reorganized and I formed my own office as LaPointe law Group, PL and relocated to the current Tarpon Springs, Florida address on January 1, 2005. The new address was changed with an EBC address update in late December 2004. Further, on June 15, 2005, a paper submission of the same address for correspondence change was submitted to the Patent Office reflecting the P.O. Box 1294, Tarpon Springs, FL 34688 address. Mason Law, PL in January reestablished itself as a trademark and copyright practice and the LaPointe Law office remains affiliated with Mason Law and handles all patent matters formerly handled by Mason Law. The undersigned has checked with the Mason Law office and it has no record of receiving the office action. For other files, Mason Law has regularly forwarded received actions to my office (although not many were sent there). Most actions have been sent to the undersigned new address since the change of address was made with the EBC in late December 2004. We have concluded that the only possibility is that the post office mis-delivered or lost the mailed office action.

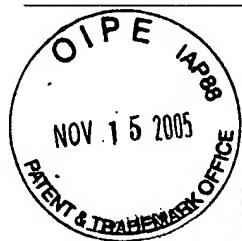
In the transition period, I have been using the docket system at Mason Law and as new actions are received, the undersigned has been entering the new data in its own docket system. A search of the file jacket and the docket records in both offices indicates that this Office Action was not received. A copy of the docket record at Mason Law is attached and confirms that the last entry was for responding to the Missing Parts requirement. I have also now created a docket entry for this case in my own case docketing system and have initially entered an action to respond to the 14 November 2005 telephonic advisory from the Examiner that the application is being held abandoned

for failure to respond to a non-final office action (that was not received). An entry for the office action will be entered upon its re-issuance and receipt.

I declare under penalty of perjury that the above is true and correct.

11/15/05
Date

Dennis G. LaPointe
Dennis G. LaPointe, Attorney of Record
Reg. 40,693
Customer No.: 24040



Mason Law, P.L. - [Case Information]

File | Edit | View | Record | Window | Help

Case Information

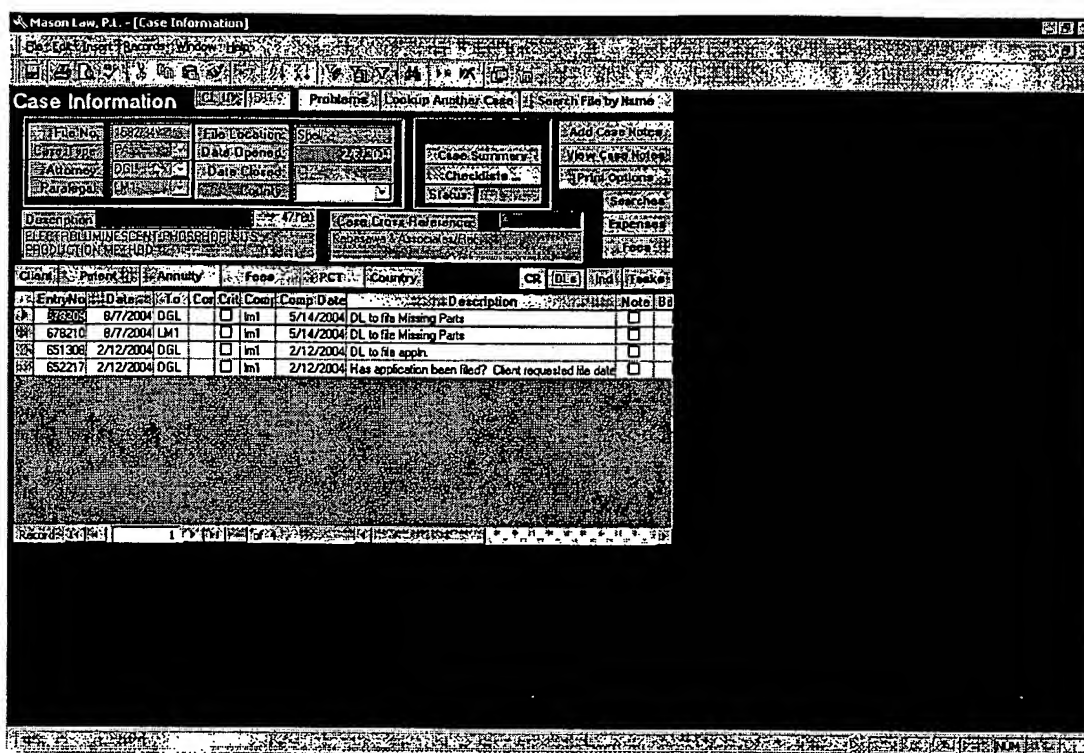
Client: Mason Law, P.L. | Patent: 6,123,456 | Annuity: 3 | Fee: 100 | PCT: 3 | Country: US

Description: ELECTRONIC CIRCUITRY FOR DATA PROCESSING

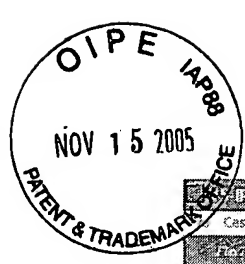
Case Information Summary

Entry No.	Date	To	Con	Cur	Comp	Comp Dat	Description	Notes	8
678211	5/7/2004	LM1				5/14/2004	Missing Parts due 60 days		
682371	5/2/2004	AM2				6/3/2004	Has updated filing receipt been reviewed by DGL?		
682372	6/1/2004	del				6/3/2004	Review updated filing receipt to client		
652209	5/22/2004	LM1				5/11/2004	Received formal filing receipt? File Assignment, if any.		
650977	5/22/2004	LM1				5/11/2004	Did we rec'd Missing Parts Notice? File Declaration		
658512	3/31/2004	LM1				3/12/2004	Did we rec'd postcard re: Priority Document filing		
652208	3/2/2004	LM1				2/21/2004	Received postcard indicating PTO receipt of application		
652213	2/14/2004	LM1				2/12/2004	Have we received date stamped Express Mail Label?		
651309	2/11/2004	LM1				2/12/2004	DL to file app'n tomorrow!		
650657	2/7/2004	LM1				2/9/2004	Any action taken on file?		
652218	1/29/2004	LM1				2/12/2004	Client requested file date in two weeks. Check progress		

Mason Docket - Tasks



MASON Docket - Deadlines



P/Case Tracking System - Z:\cts5004\apointetracking.MDD (Z:\cts5004\FORMS\CTSFORM.MDD)

Case Organizations People Contact Reports Current Reminders New Client Support Request Help

U.S. Patent Case (Record Locked to allow your updates)

Record Other Screens Save Contact Forms Help

Case Management
Sr Atty: Pri Atty: Admin:

Application Type
☐ Provisional ☐ Design
☒ Utility ☐ Plant
☐ PCT 371 ☐ ReExam
☐ Reissue

Case No: Client ID: List

App Serial No: Filing Date: Status:

Title:

Date Iss/Abr: Patent No: Patent Expiration Date:

Client Case: ☐ Exp Date Adjusted

Reminder List for this Case

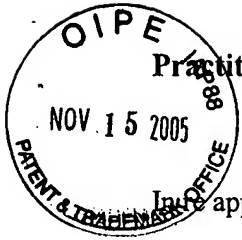
Item	Who	Due Date
RESPOND TO TELEPHONE NOTICE FROM EXAMINER THAT AR	DGL	11/15/2005

There is 1 Reminder Item for this Case

Priority Case: Priority Date:

Start | 2 CTS | 12:27 PM

LAPINTE Docket



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EXPRESS MAIL CERTIFICATE

"Express Mail" label number: ED 868075936 US

Date of Deposit: November 15, 2005

I hereby state that the following *attached* paper or fee

Petition to Withdraw Holding of Abandonment – Nonfinal Office Action Not Received (w/ duplicate copy)

Declaration of Dennis G. LaPointe

Declaration of Diane Miller

Docket record from Mason Law (2 pages)

Docket record from LaPointe Law (1 page)

Express Mail Certificate

Post Card

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10, on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Robin Dee Carter

Signature of person mailing paper or fee